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INDEPENDENT STATE AUDITOR'S REPORT ON CERTAIN ACTIVITIES OF THE FRANKLIN COUNTY SHERIFF'S OFFICE

OFFICIAL AUDIT REPORT

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ISSUED BY THE
Department of the State Auditor

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INTRODUCTION

Background

On June 30, 1996, Chapter 151 of the Acts of 1996 was signed into law, which abolished the county government of Franklin County as of July 1, 1997. All powers and duties of Franklin County under any existing regional service agreements or special acts were transferred to the Franklin Council of Governments. The Franklin Council of Governments, which was established under Section 567 of this law, was to retain any powers previously conferred upon the Franklin County and its County Commissioners. This section also transferred to the Commonwealth all functions, duties, and responsibilities for the operation and management of the jail, house of correction, and registry of deeds of Franklin County and all duties and responsibilities for the operation and management of property occupied by the courts in Franklin County. Additionally, the Commonwealth was to assume all financial control and responsibility over the Franklin County registry of deeds, jail, and house of correction.

Under conditions of the transfer, the Sheriff of Franklin County became an employee of the Commonwealth under the Secretary of Public Safety effective July 1, 1997. Subsequently, Chapter 48 of the Acts of 1997 and Chapter 127, Section 53, of the Acts of 1999 have amended Chapter 151 of the Acts of 1996 to clarify the role of the Sheriff, who continues to be an elected official and retains local administrative control but is not under the Secretary of Public Safety. Additionally, all deputies, jailers, superintendents, keepers, officers, assistants, and other employees of the Sheriff were transferred to the Commonwealth. Further, all right, title, and interest in real and personal property, including the Franklin County jail and house of correction; the land on which it is situated; and the parking facilities, fixtures, and improvements located thereon were transferred to the Commonwealth. On November 16, 1999, Chapter 127 of the Acts of 1999 was passed. Section 53 of the Act established Chapter 34B of the Massachusetts General Laws, Abolition of County Government, which clarifies and changes prior abolished county legislation.

Audit Scope, Objectives, and Methodology

The Office of the State Auditor conducted a review of the Franklin County Sheriff's Office (FCSO) subsequent to the transfer of its duties, functions, and responsibilities to the Commonwealth of Massachusetts. The scope of our review was to review and assess management controls over financial and program operations at the FCSO, and to review the accounting, reporting, and recording of program costs and expenditures to determine their appropriateness and reasonableness. We also reviewed and examined internal controls over all revenue streams, sources of funds, and inventory controls, and determined compliance with applicable laws, rules, and regulations regarding financial and program-related activities.

Our main objectives were to determine whether:

- Cash was adequately safeguarded, properly recorded, and documented to support transactions.
- Revenues had been properly accounted for and supporting documents were adequately controlled.
- Disbursements from state appropriations were properly authorized, recorded, and adequately supported.
- Payroll transactions were accurately recorded, employees and their salaries were properly authorized and paid, all postings for leave time were properly accrued and recorded, and the payments for overtime were properly documented and authorized.
- Property and equipment and supplies inventories were adequately safeguarded, recorded, and documented.
- Inmate funds were adequately safeguarded and recorded, and disbursements were adequately controlled and recorded.
- Any other sources of funding, accounts, expenditures, or items identified during the course of our review were properly recorded and adequately safeguarded.

We reviewed prior audit reports, spending plans, fiscal monitoring reports, and the FCSO's organization plan. We obtained and reviewed any policies and procedures that were in place, any contracts that were available, and all available accounting records and source documents. We also conducted interviews with management and staff. Based on our interviews and review of documents, we performed an assessment of internal controls over financial and program operations at the FCSO.

Our review was conducted in accordance with applicable generally accepted government auditing standards for performance audits.

Except as noted in the Audit Results section of the report, we determined that the FCSO's accounting, reporting, and recording of program cost and expenditures were reasonable and appropriate. The FCSO complied with applicable laws, rules, and regulations, and its management controls over financial and program operations were adequate.

AUDIT RESULTS

1. Improvements Needed in Administrative Oversight and Fiscal Monitoring

Our audit revealed that improvements were needed in the following areas of administrative oversight and the fiscal monitoring of certain areas at the Franklin County Sheriff's Office (FCSO). Specifically, improvements were needed in the following areas: (a) employee work time, overtime, and leave time monitoring; (b) gasoline usage monitoring; (c) travel expenditure documentation; (d) encumbrance documentation; (e) financial report preparation; (f) theft insurance policy; (g) personnel policies; and (h) maintenance of inventory.

a. **Employee Roll Call, Overtime, and Compensatory Time Monitoring**: The FCSO correctional officers' collective bargaining agreement allowed for the payment of roll call overtime. Specifically, Article 9, Section 8C, of this agreement explained roll call overtime as follows:

> Officers will be required to make roll call formation fifteen [15] minutes prior to the actual start of their shift. All officers attending the complete roll call prior to their shift shall be compensated at time and one half for roll call provided the employee works in excess of eight [8] hours during that day. All officers eligible for roll call will punch in no earlier than twenty [20] minutes prior to the start of his/her scheduled eight [8] hour shift. If an officer is unable to punch in at least fifteen [15] minutes prior to the beginning of his/her scheduled eight [8] hours shift, he/she shall not report to roll call and shall not receive roll call pay.

However, an administrative assistant who verifies the attendance records informed us that a shift commander could initial a timecard allowing for roll call overtime even if the officer punched in after 15 minutes before the hour. Our review of timecards showed that, in some instances, the shift commander allowed for roll call overtime despite the officer not being present 15 minutes before the hour. There were no written explanations detailing why the officers were allowed the roll call overtime by the shift commander.

Furthermore, our review of accrual and usage of compensatory time disclosed that employees were allowed to accrue and use compensatory time in lieu of overtime. Specifically, our review of 25 collective bargaining unit employee records noted that there were 28 requests for compensatory time use. However, our review noted that 15 of the 28 requests did not have supervisory approval. Additionally,

our review showed that four nonbargaining unit administrative employees were allowed to accumulate and use compensatory time. The Director of Human Resources stated that the FCSO used the Executive Office for Administration and Finance (EOAF) Human Resource Division's Rules Governing Paid Leave and Other Benefits -- known as the Redbook -- as a guide for non-bargaining agreement employees. However, Section 10.04 of the Redbook, states that "Compensatory time in lieu of overtime will not be allowed."

b. **Gasoline Usage Monitoring**: The FCSO used the Wright Express credit card system for fueling all its vehicles. Each vehicle was assigned a credit card, except in some cases where cards were assigned to employees who had been assigned vehicles. Wright Express provided detailed monthly reports in order to monitor the gasoline usage, which appeared adequate for tracking and controlling the gasoline usage.

The odometer reading of each vehicle needs to be entered on the gasoline pump's keypad by the driver. However, our review of these reports showed that these odometer readings were not always listed in a continual ascending sequential order. The administrative assistant who received these reports stated that employees were most likely entering any numbers, instead of actual odometer numbers, in order to pump the gasoline. As a result, the FCSO cannot accurately compare the number of gallons pumped with the number of miles driven, since actual odometer readings were not being entered before each gasoline fill up.

c. **Travel Expenditure Documentation**: Our review showed that improvements were needed in supporting documentation relative to the FCSO's travel expenditures. Specifically, our test of travel expenditures showed that expenditures involving out-of-state travel did not have out-of-state approval forms, contrary to EOAF's Redbook and the Massachusetts General Laws. The Redbook's Section 9.01, Out of State Travel, states, "No expenses for out-of-state travel, including the use of state-owned cars, shall be reimbursed unless prior approval is given by the Appointing Authority and Cabinet Secretary (M.G.L., C30, S25B)." Chapter 30, Section 25B, of the General Laws states in part:

> No officer or employee of the commonwealth may travel out of state at public expense except in accordance with rules and regulations established by the commissioner of administration . . . and except with the prior written approval of his appointing authority. . . . The officer approving such

out-of-state travel shall forthwith file notification of such approval with the budget director and the comptroller.

Additionally, six other expenditures did not have adequate supporting documents in order to verify how these expenditures were related to FCSO or Commonwealth business. Further, one employee was reimbursed $249 for meals expenditures while at a six-day conference. However, the Redbook's allowed reimbursement for six days should be only $147, a difference of $102.

d. Encumbrance Documentation: The FCSO did not maintain an encumbrance file or have a Massachusetts Management Accounting and Reporting System (MMARS) open purchase order report. Without these records, the FCSO could not verify whether goods and services were received but not paid for prior to July 1, 1998, contrary to the State Comptroller's Opening and Closing Instructions.

The Office of the State Comptroller's Internal Control Guide for Departments, Chapter III, Section E, Transactions Should be Documented, states:

> To provide accurate and timely accounting of financial transactions, managers must ensure that such transactions are recorded and properly classified. It is important that each step in transaction processing is recorded and the appropriate control accounts, ledgers, and files are updated. Each step in the transaction process should be documented to allow an audit trail.

The administrative assistant who monitored the encumbrances stated that an unpaid encumbrance file was not set up for fiscal year 1998 unpaid goods and services received prior to July 1, 1998 and that these fiscal year 1998 bills were paid along with fiscal year 1999 expenditures. As a result of the FCSO's classifying these fiscal year 1998 expenditures as fiscal year 1999 expenditures, the fiscal year 1999 expenditures were increased beyond the FCSO's budget.

e. Financial Report Preparation: The State Comptroller's Office requires that an annual Generally Accepted Accounting Principles (GAAP) report be filed at the end of each fiscal year that summarizes the financial activity and status of the accounts at an agency. However, our review of accounting records showed that the FCSO did not periodically prepare financial statements or fiscal monitoring reports that summarized and monitored the financial activity of the FCSO for its state, inmate, commissary, and employee benefit accounts. Without adequate periodic financial report preparation

controls in place in these areas, the FCSO exposes its fiscal operations to inherent risks. These risks include having insufficient financial information readily available to make prudent fiscal decisions on a timely basis, which prevents effective comparative analysis of fiscal operations for prior periods against current periods. Also, ineffective and untimely preparation of financial reports precludes effective monitoring of financial activities from taking place. This exposes the assets of the department to misappropriation, waste, and abuse that could go undetected because of present financial reporting practices.

Additionally, our review noted that there was no fiscal monitoring reports that summarized the profit and losses of the commissary and employee benefit funds. Further, we noted that the FCSO did not reconcile its revenues and expenditures with the State Comptroller's records to determine whether all information was posted correctly to the State Comptroller's records. Agencies are responsible for obtaining the records on-line via computer programs through the State Comptroller's Office. The Director of Fiscal Affairs stated that the FCSO had the computer capability of accessing these programs, but staff needed more training to understand how to access and use the programs.

f. **Theft Insurance Policy**: A review of the FCSO's theft policy showed that the Sheriff and the Superintendent were the only two employees covered by a theft insurance bond totaling $25,000. Other employees who handled cash, such as administrative assistants and correctional officers, were not covered by this policy. This absence of bonding coverage exposes the FCSO to unrecoverable losses. As a result of our inquiries, the FCSO's Director of Fiscal Affairs stated that he was in the process of contacting insurance companies and was seeking advice from the Department of Correction on this matter.

g. **Personnel Policies**: The FCSO did not have personnel policies or an employee handbook for nonunion employees. The Director of Human Resources stated that the FCSO was using the Redbook's Rules Governing Paid Leave and Other Benefits as a guide. The Director added that the FCSO was aware that personnel policies were needed and that it is in the process of developing such policies.

Adequate and timely supervision is especially important in small departments, where small numbers of personnel may inhibit a thorough segregation of duties.

h. Maintenance of Inventory: During our review, responsible officials of the FCSO informed us that the facility did not maintain an inventory listing of furniture and equipment, did not have a listing or stock ledger for supplies, and furniture and equipment items were not identified with an identification tag. Proper controls and an inventory system must be in place in order to ensure items are safeguarded and are being used for their intended purposes.

The Office of the State Comptroller's Internal Control Guide for Departments details internal control procedures for agencies of the Commonwealth. Chapter VII, Section C of the guide details control objectives and activities for the safeguarding of inventory and states that records should be maintained as to current inventories; goods received; goods distributed; equipment on hand and location. Additionally, the guide states, in part:

- Designate an individual to restrict access to supplies, materials, and equipment . . . and to monitor access to inventories . . .

- Land, buildings and equipment owned by the Commonwealth should be recorded on MMARS as in accordance with the Fixed Asset User Guide published by the Office of the Comptroller . . .

- All equipment should have an individual property control identification number.

- A complete property inventory of all property should exist, noting the current location.

- All inventoried equipment should be properly recorded and valued at historical cost.

The Director of Fiscal Affairs stated that the FCSO had initiated some procedures to improve the inventory system situation. FCSO drafted physical property inventory and control procedures, and was in the process of implementing a computerized bar-coded identification system. The Director of Fiscal Affairs stated that the FCSO did not have an inventory for its food supplies since it did not have adequate storage facilities, and therefore could not store any items for more than five days.

As a result of our audit, FCSO tagged all furniture and equipment valued at $50 and over with a bar-coded inventory tag. Moreover, vulnerable items such as calculators, valued at less than $50 were also tagged. Further, all items and their location had been manually listed, and the FCSO should be in the process of entering this information on the computerized bar code system.

The FCSO needs to improve its oversight and monitoring of the transactions and records in these eight areas in order to ensure the reliability of data and to ensure adherence to administrative procedures. Regarding supervision and authorization of transactions, the State Comptroller's Internal Guide for Departments, Chapter III, Section D, Internal Control Systems Should be Supervised, states:

> Managers must establish clear lines of authority and responsibility. The effectiveness of any internal control plan depends directly on management's thoroughness, consistency and timeliness of supervision. Supervisors should:
>
> - Assign tasks and establish written procedures for completing assignments.
> - Systematically review each staff member's work.
> - Approve work at critical points to ensure the quality and accuracy of transactions being processed.
> - Provide documentation of supervision.

Additionally, Chapter III, Section F, Transactions Should be Authorized, states:

> Evidence must be maintained to demonstrate that transactions are issued by persons acting within the scope of their authority. Departments should document who has the authority to approve each type of transaction. Adherence to such stipulated authorization should be monitored periodically by the Chief Fiscal Officer to ensure compliance.

Recommendation: The FCSO should:

a. Ensure that all exceptions to roll call overtime are documented and approved; all requests for leave time are documented and approved; and until it develops in its own personnel policies, compensatory time should not be allowed for employees not covered by the collective bargaining agreement.

b. Monitor the Wright Express credit card system gasoline reports and ensure employees enter accurate odometer readings.

c. Ensure that all travel expenditures are adequately supported with out-of-state approval and with source documents that would allow verification that the expenditures were Commonwealth - and FCSO-related.

d. Ensure that all accounts payable are properly documented at fiscal year-end by following the Office of the State Comptroller's Closing Instructions.

e. Complete yearly financial reports for its commissary, inmate, and employee benefit accounts, as well as its annual GAAP report as required by the Office of the State Comptroller.

f. Continue its efforts to expand its employee theft insurance coverage.

g. Continue to develop personnel policies.

h. Continue its efforts to develop an inventory control system for its furniture and equipment and supplies inventories. The FCSO should consult the State Comptroller's Internal Control Guide for Departments for assistance.

Auditee's Response:

a. Occasionally, for a variety of reasons, Correction Officers may not punch in at the time of their arrival at the facility. In the event that an Officer is on site on time, however did not punch in, Shift Commanders have been instructed to record the time the Officer was on the job, and initial the time card. As an added measure, Shift Commanders are now required to submit a report stating the reason why the employee did not punch in as well as confirm that the employee was on site on time. An employee who is not on site at the proscribed timed in order to attend roll call shall not receive roll call pay.

   We have instructed the Administrative Assistant who maintains the time and attendance records to ensure that all requests for time off, including compensatory time off, be approved by a supervisor. This practice is consistent with our written policy. Regarding the awarding of compensatory time in lieu of overtime for non-unit personnel, the Office is currently drafting a policy to address this matter consistent with state and federal law.

b. The Office does use the state contract Wright Express credit card system for fueling its vehicles. However, not all service stations that honor the Wright Express cards record the same vehicle information for use in the monthly reports. Some stations prompt the operator to enter the vehicle number and others do not. Therefore, the monthly reports are of limited use. For this reason, we have initiated a vehicle usage report that is completed by vehicle operators. Included in this report is a section that requires the operator to enter fuel added to the vehicle, including gallons and the odometer reading. With this information now being recorded, our MMARS Accountant can compare the monthly Wright Express report to our internal reports to validate appropriate use of the Wright Express cards.

c. We have initiated a Travel Authorization form that must be completed prior to the travel date and approved by the employee's supervisor and the Sheriff. Supporting documentation for travel expenditures are now being attached to the related payment vouchers for ease of review. The employee who received the additional reimbursement in error has been informed of the discrepancy, and shall be required to return the funds to the Commonwealth.

d. We have initiated a computerized monitoring system for all purchase order encumbrances which provides adequate control procedures for monitoring the accurate and timely accounting of financial transactions. Unlike closing out our first fiscal year (FY`98) under the state accounting system, payment for all goods and services received in fiscal year 1999 were paid for with fiscal year 1999 funds.

e. Regarding state funds: the GAAP report was completed and filed for FY`99 as required; the Director of Fiscal Affairs now prepares quarterly spending reports for all appropriation and allocation accounts.

The inmate and commissary accounts are audited by an independent firm annually. The Director of Fiscal Affairs now prepares monthly financial reports for these accounts.

An annual report of the employee benefit account was prepared in January 1999. A financial report of the account will be prepared annually. It should be noted that effective January 2000 employees of the Office will no longer maintain the vending machines; rather the machines will be maintained by Coca Cola representatives.

Revenues are now reconciled periodically by the Director of Fiscal Affairs.

f. In addition to bonding for the Sheriff and Superintendent/Special Sheriff, the Office will be purchasing bonding insurance for other employees of the Office consistent with bonding insurance purchased for employees of the Department of Correction.

g. The Office has completed and promulgated a policy, General Order 211, Employee Benefits, which is similar in content to the HRD's Redbook.

h. A physical property inventory policy has been developed and promulgated. An inventory of all physical property has been taken and all items were tagged with a bar coded inventory tag. At this time the inventory data is being confirmed and recorded in a computer database. In June 2000, and annually thereafter, a physical property inventory will be taken and reconciled to the inventory record maintained in the database.

We have established a secure storage area for materials and supplies, and the MMARS Accountant is now responsible for maintaining a perpetual inventory record for this area. Beginning in January of 2000, a monthly inventory and reconciliation of the material and supplies inventory will be initiated.

2. Improvements Needed in Revenue Transactions

We noted four conditions involving revenue transactions at the FCSO that needed improvement in order to ensure that these revenues were collected, deposited, managed, and reported efficiently and properly. Specifically, the areas that needed improvement are (a) reconciliation of state revenues; (b) recording of inmate funds; (c) recording of vending revenues; and (d) depositing of telephone commissions.

a. Reconciliation of State Revenues: Our review of bank statements, deposits slips, and related source documents for state revenues showed that all of these items were accurate and in agreement. However, we noted that the FCSO did not reconcile these revenue records with those of Office of the State Comptroller.

Since the FCSO did not reconcile its revenues with the State Comptroller's records, the FCSO cannot be assured that all its revenues were properly recorded with the State Comptroller. Additionally, revenues from another agency could have been improperly recorded on the FCSO's State Comptroller accounts. The FCSO's Director of Fiscal Affairs informed us that the FCSO had been improperly credited with the revenues of another Sheriff's Department. However, the FCSO was unaware of this until it was notified by the State Comptroller's Office.

The State Comptroller's Internal Control Guide for Departments, Chapter VII, Revenue Controls, Section B, states, in part, [Agencies should]:

> Reconcile receipt records as follows using MMARS reports: reconcile records of cash/revenue received against deposit records and bank book balances for the period; review output reports to assess appropriateness of balances and transactions processed.

Moreover, Section C states, in part:

> In addition to the above activities the following MMARS Reports should be maintained to establish audit trials through View Direct: . . . Revenue Reports: RPT 460A [Comparative Statement of Receipts]; RPT 465A [Revenue Earned, Received, and Retained]; and RPT 469A [Cash Received and Allocated by the Commonwealth].

The Director of Fiscal Affairs stated that the FCSO had the computer capability of accessing the State Comptroller's reports, but staff needed more training in order to understand which reports it needed and how to access them. The Director also stated that he was currently working on a revenue analysis in order to monitor the FCSO's revenues and trace them to the State Comptroller's records for agreement.

b. Recording of Inmate Funds: Our comparison of the inmate checking account balance as of September 30, 1998 with the total of the inmates' individual cash fund balances found that there was approximately $12,000 more in the overall checking account. FCSO officials stated that they were aware of the difference between these records and that the inmate checking account contained other funds besides the inmates' funds. Specifically, profits from commissary sales had been deposited in the inmate checking account for years which were used to purchase major items such as washers, dryers, televisions, and recreational items for the benefit of inmates. FCSO officials added that, even though these profits were commingled with inmate funds, inmate funds were not used for these purchases, as evidenced by the

fact that the balance in the checking account was always greater than the total of the inmates' individual cash balances.

An audit of the FCSO's inmate and commissary accounts conducted by a private accounting firm confirmed that inmate accounts were not in balance and recommended that a separate inmate benefit account be set up for the sole purpose of depositing commissary profits. Expenditures for inmates' benefits would also be made from this account and the inmate account would then show only deposits and withdrawals made by inmates.

The Director of Fiscal Affairs stated that the FCSO was in the process of implementing the recommendations made in the private accounting firm's audit report.

c. Recording of Vending Machine Revenues: The FCSO maintained a vending machine for employee use in the building that houses its administrative offices. The revenues from vending sales were deposited into a passbook savings account known as the Coke Fund, and were used for employee benefits such as flower arrangements for bereavements and illnesses, coffee, and kitchenette supplies.

Our review of financial records for this fund showed that all entries in the passbook were accurately supported by deposit slips, invoices from the Coca Cola Company, and vendor sales invoices for all other purchases. Correctional maintenance staff would maintain the inventory, load the machine, and remove cash from the machine. After removing cash from the machine, the maintenance staff would then hand over the cash to the administrative assistant, who maintained the financial records for the fund. However, the FCSO did not prepare any profit and loss statements or cost of goods sold statements to compare sales with purchases of soda inventory. The administrative assistant, who maintained the records for the fund, stated that she would be unaware if sales were short or inventory was missing. Additionally, the FCSO did not have written guidelines to assist personnel in completing transactions for this fund.

We compared vending sales with inventory purchases for a period of one year and noted a shortage in deposits or inventory. However, after further analysis, it was discovered that the administrative assistant did not always deposit the gross vending sales given to her by the maintenance staff. Instead, she would use some of the cash for purchases prior to making a deposit into the passbook. Therefore, the deposit was

a net amount of sales after the purchases. Also, a petty cash imprest fund necessary to improve controls and facilitate small dollar expenditures was not maintained.

The Director of Fiscal Affairs stated that the FCSO would be performing an inventory of soda on hand. Once this was completed, the administrative assistant would maintain cost of goods sold records for comparison to sales. The Director of Fiscal Affairs also planned to complete an annual profit and loss report on the fund.

d. Depositing of Telephone Commissions: A Commissary Fund was established to operate a canteen at which inmates could purchase items needed for personal care and use. Subsequently, the fund received commissions on telephone calls made by the inmates on a telephone system that allows inmates to place outgoing collect calls from certain telephones within the institution. Our review of the commissary account cashbook showed that the FCSO deposited $90,706 in telephone commissions to this account from July 1997 to September 1998. When the FCSO was transferred to the Commonwealth, there was some question as to which law would apply in regard to where the telephone commissions should be deposited (i.e., the Commissary Fund or the Commonwealth's General Fund). There are three laws that indicate how the revenue at the Sheriffs Office and correctional facilities should be deposited, outlined as follows:

- Chapter 151, Section 567 (l), of the Acts of 1996 states, in part: "Effective July first, nineteen hundred and ninety-seven, the commonwealth shall assume all financial control and responsibility over the ... Franklin county jail and house of corrections...." Additionally, Section 567 (m), states, in part: "All revenues collected from the operation of the functions cited in subsection (a) shall become revenues of the commonwealth on and after the effective date of this section."
- Chapter 29, Section 1, of the General Laws defines state revenue as "all income from state taxes, state agency fees, fines, assessments, charges, and other departmental revenues, retained revenues, federal grants, federal reimbursements, lottery receipts, court judgments and the earnings on such income." Further, Chapter 29, Section 2, of the General Laws, states, in part: "All revenue payable to the commonwealth shall be paid into the general fund, except revenue required by law to be paid into a fund other than the general fund and revenue for or on account of sinking funds, trust funds, trust deposits and agency funds, which funds shall be maintained and revenue applied in accordance with law or the purposes of the fund.
- Chapter 127, Section 3, of the General Laws requires that "revenues generated by the sale or purchase of goods or services to persons in the correctional facilities may be expended for the general welfare of all inmates at the discretion of the superintendent."

These telephone commissions meet the revenue criteria of all three laws; thus, funds may be required to be deposited in the General Fund or the Commissary Fund. Also, while it is true that telephones are a service, it would appear that the telephone company provides the service, not the sheriff. Therefore, it is possible these funds should be deposited in the General Fund. However, because of the uncertainty of where the funds should be deposited, a clarification is needed as to which law applies or an amendment to these laws is required in order to clarify where funds should be deposited and the purpose for which they should be used.

Recommendation: The FCSO should:

a. Increase its training efforts in order to improve its understanding of accessibility to MMARS reports so that the FCSO can properly reconcile its revenue activity with the State Comptroller's records.

b. Continue its efforts to reconcile inmate accounts so that the inmates' cash fund balances will be in agreement with the inmate checking account.

c. Complete its plans to inventory all vending machine soda, prepare profit and loss reports, and record cost of goods sold. Additionally, the FCSO should set up a petty cash imprest fund for all expenditures from this account to improve controls over gross revenue and expenditures.

d. Obtain legal assistance regarding Chapter 151, Section 567(1), of the Acts of 1996; Chapter 29, Section 1 of the General Laws; and Chapter 127, Section 3, of the General Laws, as to which law takes precedent in order to determine where telephone commissions should be deposited (i.e., the General Fund or the Commissary Fund).

Auditee's Response:

a. The Director of Fiscal Affairs now conducts a periodic reconciliation of state revenues, and ensures the accurate allocation to the various fund accounts in accordance with the Office of the State Comptroller.

b. The Director of Fiscal Affairs stated that the FCSO is in the process of implementing the recommendations made in the IPA's audit report.

c. Vending revenues are now periodically reconciled by the Director of Fiscal Affairs. A profit and loss report for the funds was completed in January of 1999, and will be completed annually each January. As mentioned earlier, beginning in January 2000, Office employees will no longer handle the vending machine stock or funds. Representatives from Coca Cola will be maintaining the vending machines, and the employee benefit fund will receive a monthly commission.

d. It is the position of the respondent that the deposit of inmate telephone commissions to the inmate benefit fund is governed by MGL Chapter 127, Section 3 as revenue generated by the sale of goods or services to persons in correctional facilities. The Legislature recognizes the applicability of Chapter 127, Section 3 by providing the following requirement in the appropriation language for county corrections: "that all revenues including, but not limited to, revenue received from housing federal prisoners, united states marshals, canteen revenues, inmate industries and work crew revenues, shall be tracked and reported quarterly to the House and

> Senate Ways and Means and the Massachusetts Sheriff's Association." With regard to those Sheriff's Offices that no longer operate within units of county Government, the Legislature has not provided further direction with regard to said revenues. Therefore, since the language of Section 3 of Chapter 127 grants authority for expenditure of said funds to Superintendents of Correctional Facilities, it is the respondent position that the Franklin Sheriff's Office remains within the purview of this legislation.

Auditor's Reply: A legal review should be conducted to determine where telephone commissions should be deposited, and, if necessary, appropriate legislation should be filed to clarify where commissions should be deposited.

3. **Clarification Needed in Determining the Salary of the Elected Franklin County Sheriff**

During our audit we determined that the Franklin County Sheriff, an elected official, received pay increases since becoming a state employee. In regard to these pay raises, the state Legislature enacted Chapter 151, Section 567 (j), of the Acts of 1996 which addresses the Sheriff's salary procedure and the salary rate as follows:

> Notwithstanding any general law or special law to the contrary, the sheriff of Franklin County, in office June thirtieth nineteen hundred and ninety-seven, shall become an employee of the commonwealth under the secretary of public safety effective July first, nineteen hundred and ninety-seven. The salary of such sheriff shall be set at a level equivalent to the salary of the superintendent of a comparable state corrections facility, to be determined through a classification study conducted by the state personnel administrator.

The Sheriff was given a percentage raise comparable to other non-unit salaried personnel within the Sheriff's Office. This salary structure was prepared during the preliminary budget process of the Sheriff's Office in aligning salaries with projected funding.

However, effective October 1, 1998, Chapter 344, Section 1, of the Acts of 1998 amended Section 567(j) of Chapter 151 and eliminated the requirement that the Franklin County Sheriff's salary "shall be set at a level equivalent to the salary of the superintendent of a comparable state correction facility to be determined through a classification study conducted by the state personnel administrator. Subsection (j) was deleted and the following was inserted:

> Notwithstanding the provisions of any general or special law to the contrary, the sheriff of Franklin County shall become an employee of the commonwealth. Said sheriff shall remain an elected official under the provision of Section 159 of Chapter 54 of the General Laws and shall be

> known as the Franklin sheriff. Said sheriff shall operate pursuant to the provisions of Chapter 37 of the General Laws. Said sheriff shall retain administrative and operational control over the office of the sheriff, the jail and house of correction.

However, the new subsection does not indicate the methodology for setting the Franklin Sheriff's salary.

Subsequent to the abolition of the FCSO, new legislation was passed that amended Chapter 48 of the Acts of 1997. Specifically, Chapter 127, Section 53, of the Acts of 1999 created Chapter 34B of the Massachusetts General Laws, "Abolition of County Government." This new legislation was signed into law on November 16, 1999, more than 40 months after the abolition of Franklin County government. Section 3 of Chapter 34B may allow for elected county officials to receive salary increases after a county has been abolished. The new law reads: "there shall be no increase in the salaries of any abolished county's elected officials, prior to the transfer of the abolished county to the commonwealth." Therefore, the salary increases received by the Franklin County sheriff are no longer inconsistent with county abolition legislation. However, the new legislation still does not address how salary increases for these elected officials are to be determined and who is responsible for approving said increases.

Section 12 of Chapter 34B indicates that the sheriff of an abolished county, including Franklin County, shall operate pursuant to the provisions of Chapter 37 of Massachusetts General Laws. Section 17 of Chapter 37 discusses the salaries of elected officials as follows:

> The salaries of sheriff's shall be paid by their respective counties and shall, except as hereinafter provided, be in full compensation for all services rendered both as sheriff and as superintendent or keeper of the jail or house of correction. If a sheriff elects to act, or his deputy acts, as superintendent or keeper of the jail or house of correction and resides thereat, he shall be entitled to rent, heat and light, and such subsistence as he may desire out of the regular subsistence rations purchased for prisoners, together with such other maintenance as may be determined from time to time by the county personnel board.
>
> The salary of the sheriff of the county of Suffolk shall be a sum equivalent to ninety per cent of the salary of an associate justice of the superior court.
>
> The sheriff of the county of Nantucket shall, in addition to his salary, retain all fees collected and received by him for service of process.

The above law does not address salary increases and at what rate an abolished county sheriff's salary should be and when and how an abolished county's sheriff should receive an increase in salary.

Recommendation: The process of setting the salaries of abolished county elected officials needs to be clarified. The adequacy of compensation and the fairness of the determination process for establishing the salaries of such elected officials are otherwise subject to question and future conflicts. Therefore, the appropriate parties should resolve the methods, differences, and ambiguities in setting the salaries of former county elected officials from abolished counties who are now elected state officials.

Auditee's Response: FCSO stated in part:

> The salary of the Franklin County Sheriff was . . . established in accordance with spending plan guidelines set by the Executive Office of Administration and Finance and the House and Senate Ways and Means Committees.

Auditor's Reply: We recommend that the ambiguities regarding the salary levels of abolished county elected officials be addressed by the appropriate parties.